

Exhibit C

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF MISSOURI
3
4 MISSOURI PRIMATE)
FOUNDATION, ET AL.,)
5)
Plaintiffs,)
6)
vs.) Civil Action No.
7)
PEOPLE FOR THE ETHICAL) 4:16-cv-02163-CDP
8 TREATMENT OF ANIMALS,)
INC., ET AL.,)
9)
Defendants.)

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DEPOSITION OF DR. DOUGLAS PERNIKOFF
TAKEN ON BEHALF OF THE DEFENDANTS
JUNE 27, 2018

1 foundation I will refer to as MPF.

2 A Okay.

3 Q Thank you. At some point were you
4 asked to become MPF's attending veterinarian?

5 A Never formally.

6 Q You -- there was never a formal
7 arrangement between you and MPF or any of MPF's
8 representatives to be the attending veterinarian
9 for the chimpanzees; is that correct?

10 A Correct. There was none.

11 Q Were you ever asked to sign a written
12 program of veterinary care of the chimpanzees?

13 A You mean through the MPF?

14 Q Or any other entity who owned or
15 controls MPF?

16 A No.

17 Q Did you ever -- just to be clear, are
18 you aware that the -- that there are certain Animal
19 Welfare Act regulations governing how the
20 chimpanzees at MPF must be cared for?

21 A That's kind of a vague question. I
22 mean, I understand that there has to be good
23 husbandry and good welfare.

24 Q Do you understand that a written
25 program of veterinary care may be required to be

1 **established for these chimpanzees under the Animal**
2 **Welfare Act regulations? Are you aware of that?**

3 A I am not aware of that.

4 Q **Okay. And certainly sitting here**
5 **today, as far as you know, you never signed a**
6 **written program of veterinary care for the**
7 **chimpanzees at MPF; is that correct?**

8 A That's correct.

9 Q **Were you asked to conduct regularly**
10 **scheduled visits to MPF's premises?**

11 A I was not, except an annual USDA
12 visit. Just to walk through.

13 Q **So are you saying you did conduct an**
14 **annual USDA visit?**

15 A Well, I am not a USDA, but the USDA
16 requires that the veterinarian that helps should,
17 you know, come in and sign a form that you have
18 been there.

19 Q **So you're aware of that requirement?**

20 A I am.

21 Q **And did you sign a form annually that**
22 **you conducted a site visit at MPF?**

23 A Yes, I did.

24 Q **Do you have copies of that form?**

25 A No. But I know county keeps a copy.

1 responsibility, and I'm about an hour away. So I
2 met and enlisted, just informally, Tom or -- I
3 think his name was Tom. Butch Jones. I know it
4 was Butch Jones, he's a local veterinarian in
5 Festus and he has a facility.

6 So we, on occasion, I felt we would
7 need a facility. We're going to take X-rays or
8 something, so he and I kind of joined in helping
9 and being available. I was out of town for a
10 number of years working, and I assumed he was in
11 charge of that time.

12 Q During what years were you out of
13 town?

14 A I was out of town '89 through '95.

15 Q Let me read you from the Animal
16 Welfare Act regulations that apply to exhibitors
17 from CFR section 2.40. It refers to, "In the case
18 of a part-time attending veterinarian or consultant
19 arrangements, the formal arrangements shall include
20 a written program of veterinary care and regularly
21 scheduled visits to the premises of the dealer or
22 exhibitors," end quote.

23 So if I understand you correctly, you
24 are not aware of having signed any written program
25 of veterinary care; is that right?

1 A Right.

2 Q But you did go to conduct an annual
3 visit to the premises?

4 A Yes.

5 Q And you did sign a form documenting
6 that visit?

7 A Yes.

8 Q And that form you do not have, but
9 you gave that form to Miss Casey?

10 A I didn't give her anything. She
11 would present it to me and I would sign it.

12 Q For your signature?

13 A And it was -- it had serial dates.

14 Q Right. There was one form.

15 A Yes.

16 Q And every year on your annual visit
17 you would sign and date it? Or it would be dated?

18 A Yes.

19 MR. BALDWIN: Off the record for a
20 second.

21 (Off the record.)

22 Q (BY MS. BERNSTEIN) Back on the
23 record. So perhaps we want to be clear here.
24 There was never a formal arrangement between you
25 and anybody from MPF for you to be the attending

1 A That's correct.

2 Q And that failure to have a -- an
3 established program of preventive care could cause
4 harm to the chimpanzees; isn't that right?

5 A That's possible.

6 Q It could cause actually the death of
7 these chimpanzees?

8 A I suppose that's possible.

9 Q Can you rule out that what killed the
10 primates at MPF in the past were -- could have been
11 prevented by appropriate veterinary care,
12 preventive veterinary care?

13 MR. BATTEN: Objection to the form of
14 the question.

15 A I can't rule it out.

16 MS. BERNSTEIN: Okay. Let's take a
17 break.

18 (Off the record.)

19 Q (BY MS. BERNSTEIN) Welcome back, Dr.
20 Pernikoff. I remind you -- you are still under
21 oath.

22 A Okay.

23 Q If you would take a look at what we
24 have marked as Exhibit 3, which is a set of
25 documents, I don't know whether they're individual

1 documents or not, but this has been provided to us
2 this morning from Miss Casey.

3 A Okay.

4 Q The second page of this exhibit is a
5 two-page -- I'm not sure what to call it -- titled
6 Environmental Enrichment Program. Is this your
7 signature on the second page? Bates number CASEY
8 316?

9 A Doesn't look like it.

10 Q This does not appear to be your
11 signature; is that right?

12 A I don't believe so.

13 Q All right. Is the document that is
14 titled Environmental Enrichment Program something
15 that looks familiar to you at all?

16 A I've never seen it.

17 Q Okay. You can put that aside.

18 The next -- after that is a document
19 called Animal Care, which is an APHIS Form, APHIS
20 is spelled A-P-H-I-S, Form 7002.

21 Is that your signature on the bottom?

22 A I don't believe so.

23 Q Does it look like you signed -- or
24 this is dated March 24 --

25 A 27.

1 and the doctor of veterinary medicine shall be
2 established and reviewed on an annual basis."

3 Do you see that?

4 A (Witness nods.)

5 Q Is it fair to say that you did not
6 establish and review on an annual basis a written
7 program of adequate veterinary care between
8 yourself and MPF or Connie Casey?

9 A That's correct.

10 Q If an adequate veterinary -- if a
11 written program of adequate veterinary care is not
12 established, could it cause harm to the animals?

13 A It's possible.

14 Q Do you know why Miss Casey failed to
15 establish a written program of adequate veterinary
16 care for the chimpanzees?

17 A I do not know.

18 Q On the following page -- it might be
19 that you signed it a long time ago but --

20 A It doesn't look like my signature.

21 Q It does not? Well, if you would be
22 so kind, actually, would you put your signature on
23 -- yeah. On the bottom?

24 A That's my signature.

25 Q Okay. Thank you. You've provided

1 **a --**

2 MS. BERNSTEIN: Dan, for your
3 reference, Dr. Pernikoff provided a signature
4 handwriting sample right underneath the signed
5 document that we marked as Exhibit 3.

6 MR. BATTEN: He marked directly on
7 it?

8 MS. BERNSTEIN: He marked directly on
9 it, yes. Directly underneath.

10 MR. BALDWIN: So it'll have two
11 signatures and the lower one below the line is his.
12 The one he just did.

13 MR. BATTEN: So the record is clear,
14 can you circle in red ink his actual signature?

15 MS. BERNSTEIN: We don't have any red
16 ink. How about purple?

17 MR. BATTEN: As long as it's
18 distinguishing from everything else.

19 MS. BERNSTEIN: I think you can
20 distinguish it by copying, you know, it has the
21 Bates number 318 but --

22 MR. BATTEN: I'm just saying
23 distinguish it between the two signatures.

24 **Q (BY MS. BERNSTEIN) Just draw a**
25 **purple line below it without interfering with**

1 anything else.

2 A (Witness complies.)

3 Q Dr. Pernikoff added a purple line
4 underneath the signature that he just affixed
5 during the deposition to compare it with the one
6 that was affixed to the document as we received it.

7 All right. On the next page, Section
8 III - Wild and Exotic Animals, part A identifies,
9 lists "Vaccinations" and that is blank. And
10 underneath it says, "Parasite Control Program,"
11 section B, "Describe the Frequency of Sampling or
12 Treatment for the following. Ectoparasites."

13 Can you read what was entered into
14 the section B1?

15 A It says, "Pyrethrin as needed - more
16 frequent in summer."

17 Q As far as you know, is that provided
18 to the chimpanzees?

19 A No.

20 Q You don't know, or it is not?

21 A I don't know.

22 Q Okay. Is that a prescription drug?

23 A It's a -- that's a good question.

24 No, it's not a prescription drug. You can get it
25 at the pet shops and stuff.

1 Q Okay. You recognize those?

2 A Oh, yeah.

3 Q And that's different than the
4 signature that we had on Exhibit 3 where you said
5 it didn't look like your signature?

6 A You can see my signature is very
7 consistent.

8 Q Okay. So to the extent that this
9 purports to have been signed by you in '08, that's
10 not your signature?

11 A Correct.

12 Q It does not look like your signature?

13 A Does not.

14 Q Whoever signed it didn't do a very
15 good job in even making it look like your
16 signature?

17 A No. There's my signature.

18 Q Right. That was your signature in
19 2009 and it's been consistent all along?

20 A Yeah.

21 Q Do you have any understanding why
22 somebody would forge your signature on an official
23 USDA document?

24 A I have no idea.

25 Q Is it somewhat concerning to you that

1 **your signature has been forged on --**

2 A Yeah.

3 Q **-- what looks to be an official USDA**
4 **document?**

5 A Yep.

6 Q **Do you know, is there a possibility**
7 **that your signature might have been forged every**
8 **single year because this is a document that has to**
9 **be -- no, no, no. Not on this page but on other**
10 **programs of veterinary care?**

11 A I didn't know that they had to renew
12 this every year. I thought once one is created, it
13 was created.

14 Q **It has to be signed every year by the**
15 **attending veterinarian?**

16 A So I have never seen that for any
17 veterinary program I have been associated with.
18 This I have seen but I have never seen this being
19 repeated anywhere.

20 Q **And it's very clear I think it's not**
21 **your signature there?**

22 A That's not my signature.

23 Q **Is that of some concern to you that**
24 **we received a document purporting to be the**
25 **program, written program of veterinary care for the**

1 **veterinarian?**

2 A We never used the term.

3 **Q Right. Well, you --**

4 A I mean, I was -- I consider myself
5 primary responsible to her needs with the great
6 apes. But I never had a formal declaration or
7 anything. I was just being responsible to help
8 her.

9 **Q To the extent you could?**

10 A To the extent I could.

11 **Q And to the extent you were asked?**

12 A To the extent I was asked.

13 **Q Right. Now, right underneath the**
14 **heading Program of Veterinary Care Instructions, do**
15 **you see there is a single asterisk and it says,**
16 **"The enclosed Program of Veterinary Care (PVC)**
17 **should be completed and signed by your attending**
18 **veterinarian and must be signed by you. Keep the**
19 **properly completed PVC as part of your records that**
20 **will be reviewed by your USDA inspector."**

21 Now, is it fair to say that when you
22 signed this in any of these years, there was no
23 enclosed Program of Veterinary Care?

24 A Correct.

25 **Q And is it further fair to say that**

1 you did not complete or sign any enclosed Program
2 of Veterinary Care because there was none?

3 A Correct.

4 Q You just signed this sheet of paper?

5 A Right.

6 Q The last paragraph before the
7 signatures says, "This sheet may be used as a means
8 to document your attending veterinarian's visit to
9 your facility. If you choose to use it for that
10 purpose, have your attending veterinarian sign and
11 date this sheet during each visit to your facility.
12 Your attending veterinarian must visit your
13 facility at least once each year. This sheet
14 should be kept with your PVC."

15 It's fair to say that this sheet was
16 not kept with any PVC?

17 A Correct.

18 Q You just were handed a loose sheet
19 and unconnected to any PVC that you ever
20 established?

21 A Correct.

22 Q This is just a sheet that you signed?
23 Like a visitor log?

24 A Right.

25 Q But it wasn't confirming or

1 documenting anything with respect to any Program of
2 Veterinary Care?

3 A Not at all.

4 Q In fact, I think you already
5 established, for example, Joey, who was at the
6 facility for some time, you had no veterinary
7 client-patient relationship with Joey whatsoever?

8 A No.

9 Q Okay. You can put that aside. So to
10 the extent that an inspector from USDA would see
11 this sheet of paper, this Exhibit 4, would it
12 create a misimpression for the agency to think that
13 you would be the attending veterinarian while you
14 were truly not?

15 A I could see that misinterpretation.

16 Q If that is provided to the inspector
17 together with the Program of Veterinary Care that
18 bears not your signature but purports to be your
19 signature, would that mislead the agency, the USDA
20 into believing erroneously that you had signed off
21 on a Program of Veterinary Care when in fact you
22 haven't?

23 A Yes.

24 Q Do you think, as a friend and long
25 time --

1 than the psychological.

2 **Q Okay.**

3 A Yes, I suppose that's true.

4 **Q And would you agree with me that**
5 **currently the animals do not receive adequate**
6 **preventive veterinary care?**

7 A That would be true.

8 **Q And as far as you know, there**
9 **currently is no written program of any veterinary**
10 **care for any of those chimpanzees in place?**

11 A As far as I know, that's true.

12 **Q You certainly were not maintaining or**
13 **providing such a program?**

14 A Right.

15 **Q And the only program we've seen today**
16 **was signed by somebody purporting to put your**
17 **signature on the document?**

18 A That's correct.

19 MS. BERNSTEIN: That is all I have.
20 Thank you. I don't know if Mr. Batten has any
21 questions.

22 MR. BATTEN: I do.

23 Mr. BATTEN: Dr. Pernikoff, or
24 anybody else there, do you guys need a five minute
25 break before I ask my questions?

1 **did you see the animals in the outdoor enclosure?**

2 A No. I didn't specifically look for
3 it either.

4 Q Right. So to the extent that you
5 **testified that every time you went there you saw**
6 **some animals in the outdoor enclosure, that was**
7 **incorrect, was it not?**

8 A Well, I don't remember.

9 Q Okay. So it could very well be that
10 **you were there when the animals were not in the**
11 **outdoor enclosure?**

12 A Or that they were there outside and I
13 didn't see them.

14 Q And you did not see them. Okay. So
15 **would you like to correct your previous testimony**
16 **where you said every time you went there you saw**
17 **animals in the outdoor enclosure?**

18 A That would make sense.

19 Q Okay. You also said, testified
20 **something about seeing no signs of mental illness;**
21 **is that right?**

22 A Nothing that I recognized as mental
23 illness.

24 Q Right. You cannot rule out sitting
25 **here today whether or not any of the animals do**

1 CERTIFICATE OF REPORTER

2

3 I, TARA SCHWAKE, a Registered
4 Professional Reporter and Notary Public within and
5 for the State of Missouri, do hereby certify that
6 the witness whose testimony appears in the
7 foregoing deposition was duly sworn by me; that the
8 testimony of said witness was taken by me to the
9 best of my ability and thereafter reduced to
10 typewriting under my direction; that I am neither
11 counsel for, related to, nor employed by any of the
12 parties to the action in which this deposition was
13 taken, and further that I am not a relative or
14 employee of any attorney or counsel employed by the
15 parties thereto, nor financially or otherwise
16 interested in the outcome of the action.

17

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Notary Public in and for

21

The State of Missouri

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25